

## Environmental Protection Agency

## § 264.227

owner or operator must obtain a certification from a qualified engineer that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(1) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(2) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

(d)(1) An owner or operator required to have a leak detection system under § 264.221 (c) or (d) must record the amount of liquids removed from each leak detection system sump at least once each week during the active life and closure period.

(2) After the final cover is installed, the amount of liquids removed from each leak detection system sump must be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two consecutive months, the amount of liquids in the sumps must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two consecutive quarters, the amount of liquids in the sumps must be recorded at least semi-annually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semi-annual recording schedules, the owner or operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two consecutive months.

(3) "Pump operating level" is a liquid level proposed by the owner or operator and approved by the Regional Administrator based on pump activation level, sump dimensions, and level that avoids backup into the drainage layer and minimizes head in the sump.

[47 FR 32357, July 26, 1982, as amended at 50 FR 4514, Jan. 31, 1985; 50 FR 28748, July 15, 1985; 57 FR 3488, Jan. 29, 1992; 71 FR 40273, July 14, 2006]

### § 264.227 Emergency repairs; contingency plans.

(a) A surface impoundment must be removed from service in accordance with paragraph (b) of this section when:

(1) The level of liquids in the impoundment suddenly drops and the drop is not known to be caused by changes in the flows into or out of the impoundment; or

(2) The dike leaks.

(b) When a surface impoundment must be removed from service as required by paragraph (a) of this section, the owner or operator must:

(1) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(2) Immediately contain any surface leakage which has occurred or is occurring;

(3) Immediately stop the leak;

(4) Take any other necessary steps to stop or prevent catastrophic failure;

(5) If a leak cannot be stopped by any other means, empty the impoundment; and

(6) Notify the Regional Administrator of the problem in writing within seven days after detecting the problem.

(c) As part of the contingency plan required in subpart D of this part, the owner or operator must specify a procedure for complying with the requirements of paragraph (b) of this section.

(d) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(1) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with § 264.226(c).

(2) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

(i) For any existing portion of the impoundment, a liner must be installed in compliance with § 264.221(a); and

(ii) For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

## § 264.228

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(e) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired must be closed in accordance with the provisions of § 264.228.

[47 FR 32357, July 26, 1982, as amended at 50 FR 28748, July 15, 1985]

### § 264.228 Closure and post-closure care.

(a) At closure, the owner or operator must:

(1) Remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless § 261.3(d) of this chapter applies; or

(2)(i) Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

(ii) Stabilize remaining wastes to a bearing capacity sufficient to support final cover; and

(iii) Cover the surface impoundment with a final cover designed and constructed to:

(A) Provide long-term minimization of the migration of liquids through the closed impoundment;

(B) Function with minimum maintenance;

(C) Promote drainage and minimize erosion or abrasion of the final cover;

(D) Accommodate settling and subsidence so that the cover's integrity is maintained; and

(E) Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(b) If some waste residues or contaminated materials are left in place at final closure, the owner or operator must comply with all post-closure requirements contained in §§ 264.117 through 264.120, including maintenance and monitoring throughout the post-closure care period (specified in the permit under § 264.117). The owner or operator must:

(1) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(2) Maintain and monitor the leak detection system in accordance with §§ 264.221(c)(2)(iv) and (3) and 264.226(d), and comply with all other applicable leak detection system requirements of this part;

(3) Maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of subpart F of this part; and

(4) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(c)(1) If an owner or operator plans to close a surface impoundment in accordance with paragraph (a)(1) of this section, and the impoundment does not comply with the liner requirements of § 264.221(a) and is not exempt from them in accordance with § 264.221(b), then:

(i) The closure plan for the impoundment under § 264.112 must include both a plan for complying with paragraph (a)(1) of this section and a contingent plan for complying with paragraph (a)(2) of this section in case not all contaminated subsoils can be practicably removed at closure; and

(ii) The owner or operator must prepare a contingent post-closure plan under § 264.118 for complying with paragraph (b) of this section in case not all contaminated subsoils can be practicably removed at closure.

(2) The cost estimates calculated under §§ 264.142 and 264.144 for closure and post-closure care of an impoundment subject to this paragraph must include the cost of complying with the contingent closure plan and the contingent post-closure plan, but are not required to include the cost of expected closure under paragraph (a)(1) of this section.

[47 FR 32357, July 26, 1982, as amended at 50 FR 28748, July 15, 1985; 57 FR 3488, Jan. 29, 1992]

### § 264.229 Special requirements for ignitable or reactive waste.

Ignitable or reactive waste must not be placed in a surface impoundment, unless the waste and impoundment satisfy all applicable requirements of 40 CFR part 268, and:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the impoundment so that: